



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
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EUREKA CITY PLANNING COMMISSION

STAFF REPORT

April 10, 2017

Project Title: *Modify T-Mobile Cellular Conditional Use Permit C-09-0004 to Allow the Installation of a Back-Up Generator at 2327 Dean Street*

Project Applicant: PWM, Inc.

Case No: C-09-0004 (mod-17-0002)

Project Location: 2327 Dean Street; APN: 013-112-022

Zoning and General Plan: Hospital Medical (HM)/Medical Services Commercial (MSC)

Project Description: The applicant is requesting a modification of Conditional Use Permit C-09-0004 approved by the Planning Commission in September 2009 that permitted construction of a 50' cellular monopole. The modification is to allow installation of a back-up generator and fuel supply for use during power outages, instead of relying solely on battery backup.

Staff Contact Person: Stephen Avis, AICP, Consulting Planner; City of Eureka, Development Services Department, Community Development Division; 531 "K" Street, Eureka, CA 95501-1165; phone: (707) 441-4164, email: savis@ci.eureka.ca.gov.

Environmental: Modification of Use Permit C-09-0004 is a "project" as defined by the California Environmental Quality Act (CEQA), and is subject to the provisions of the Act. In 2009, Staff prepared an initial study and Negative Declaration of Environmental Impact (SCH #2009042092). Because a generator was not part of the project, noise was not analyzed in the study. An amendment to the Initial Study that addresses potential impacts from air quality and noise was prepared for this modification. Based on the analysis, staff recommends adoption of a negative declaration stating that no substantial adverse environmental impact would result from the proposed generator. The initial study and draft negative declaration are attached as Attachment 1 and Attachment 2.

Staff Recommendation

1. Hold a public hearing to receive public testimony; and Consider
the Negative Declaration addendum; and

3. Adopt a Planning Commission Resolution approving an addendum to the Negative Declaration with the findings of fact and conditions of approval, and approving modification to the use permit.

Background: In June 2009, the applicant proposed the construction of a 50 foot tall monopole to provide Personal Communication Service (PCS) for T-Mobile customers. In September 2009, the Planning Commission approved with conditions use permit C-09-04 for the project.

The property at 2327 Dean Street has one (1) monopole for T-Mobile telephone communications equipment. Conditional Use Permit C-09-0004 authorized the construction of one fifty (50) foot high T-Mobile cellular monopole at the rear of the Morgan Stanley office building. The cell tower was erected as proposed. A Wireless Telecommunication Facility permit was issued on April 25, 2013 when additional antennas were added to the tower.

According to the 2009 staff report and based on a review of project files, the previously approved project does not include a backup generator. Per paragraph two of the staff report, **"A battery cabinet would be used for temporary power outages."**

On February 8, 2017, the applicant submitted plans for a building permit to install an onsite back-up generator for this T-Mobile cellular monopole. The permit application was reviewed by Planning Department staff for conformance with current zoning regulations and 2009 conditions of approval for the monopole. It was during this review of C-09-0004 that staff determined a generator had not been included or approved in the 2009 application.

As a result, a modification of the original use permit needs approval. Because this is project for purposes of conformance to the California Environmental Quality Act (CEQA), an amendment to the Negative Declaration issued for construction of the monopole is also required.

The subject parcel is approximately 22,680 square feet in size and is located at the northeast corner of Buhne and Dean Streets. The property contains a residential structure at 2327 Dean Street and the financial building at 2421 Buhne Street. These two buildings were previously on separate lots but the lots were merged into a single property. The subject property has 126' frontage on Dean Street and 180' frontage on Buhne Street. The drawings in Figure 1 show the "Overall Site Plan" which illustrates the location of the proposed generator in relation to the intersection of Buhne and Dean Streets, and the "Enlarged Site Plan" shows the location of the monopole between the two existing buildings. The plans show the location of an existing power pole, which is used in other Figures for reference.

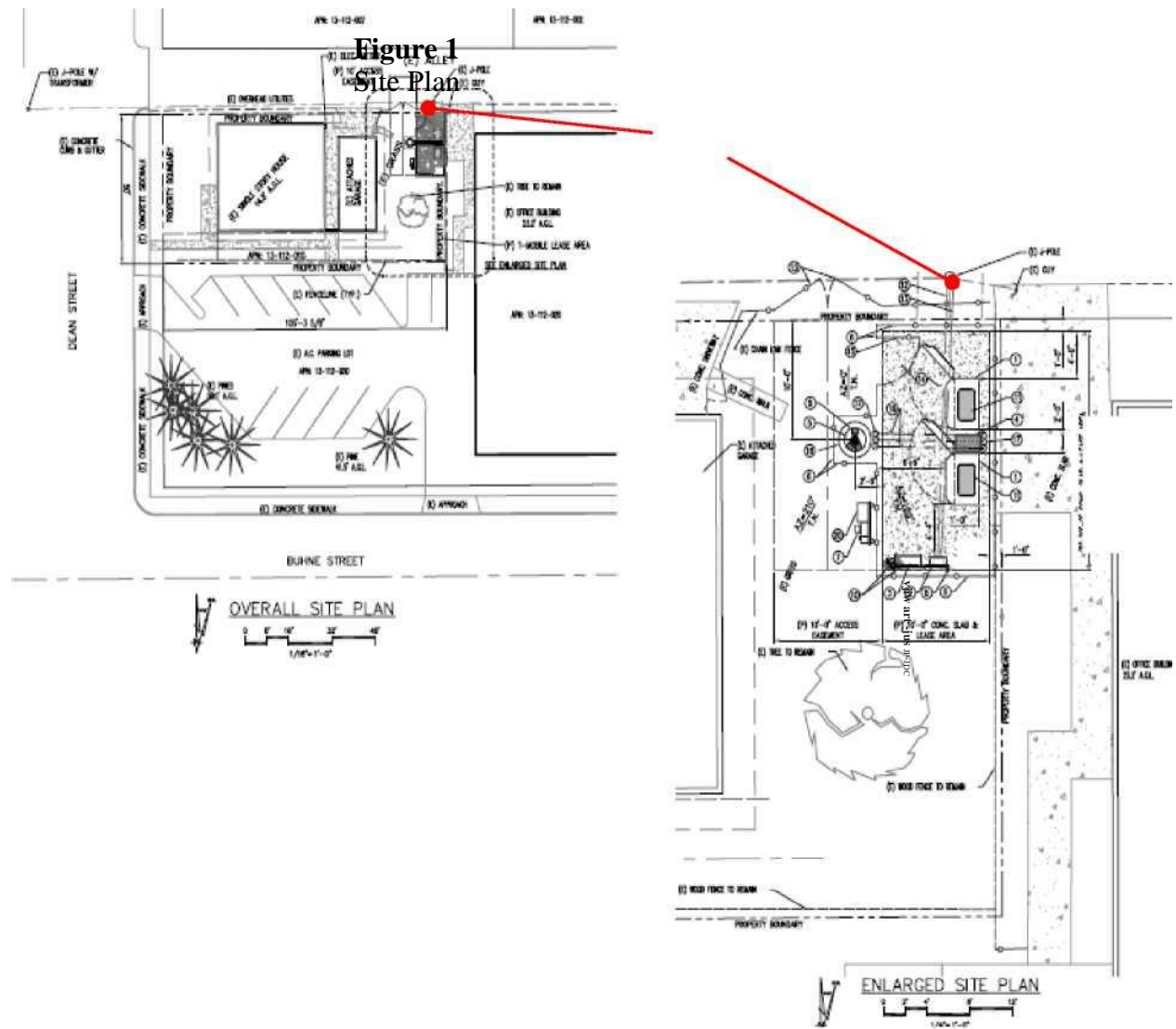


Figure 2

Photos of Existing Neighborhood



Photo taken from Dean Street looking east down the alley



Photo taken from the alley looking west



Photo taken from the alley looking eastward

Reference Power Pole in the alley near the location of the proposed Monopole



Photo taken from the alley looking south

Applicable Regulations: Title 15, Chapter 155, of the Eureka Municipal Code, Section 155.285,

specifies the findings that the Planning Commission must make prior to approving a conditional use permit, they are:

- 1) *That the proposed location of the conditional use is in accord with the objectives of Chapter 155 and the purposes of the district in which it is located: and*
- 2) *That the _ proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity: and,*
- 3) *That the proposed conditional use will comply with each of the applicable provisions of Chapter 155: and*
- 4) *That the _ proposed conditional use, if located in the coastal zone, is consistent with the certified Local Coastal Program and is consistent with the intent of the zoning district.*

Analysis: The following discussion analyzes the proposed project for each of the required findings listed above. The analysis and recommendations included herein are based upon adopted regulations, current law, sound planning principals, and including site investigations, agency comments, and information submitted with the permit application

1) ***Objectives of Chapter 155 and Purposes of District:*** Pursuant to Eureka Municipal Code (EMC) Section 155.002, the zoning regulations are adopted in accordance with the City Charter to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. The specific objectives of the Chapter and the purposes of the HM zone District are listed in Attachment 1.

A discussion of the potential effects of the project on the public health and safety is contained in the attached initial study and in the section below. The initial study also contains the location maps, site plans, monopole elevations, etc. Concerning peace, comfort, and general welfare, these are included in the discussed below on impacts to the public welfare.

The increasing use of and reliance on cellular phones and PCS devices necessitates a reliable network. Outages of cellular communication can pose serious problems for emergency personnel during emergencies such as earthquake, tsunami and/or storms. If the power grid is interrupted the proposed backup generator will provide several hours of reliable power for the reception and transmission of signals. The public welfare will be enhanced with access to continuous phone and data communication.

2) ***Public health, safety, or welfare:*** This finding requires a determination of whether the proposed location of the back-up generator and the conditions under which

it would be operated or maintained would be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

The use of a back-up generator does not provide a significant increase in risk to the public since the unit will not be in operation the majority of the time.

In contrast, the loss of cellular voice and data transmission near a regional hospital could have profound impact on public health and safety if it occurs during a major emergency situation involving casualties needing medical assistance.

3) ***Use complies with applicable provisions:*** The applicable provisions include the development regulations of the Municipal Code for, among other things, land use, height, size, yards, location, off-street parking and loading. As stated above, the subject property is zoned MH, a cellular communication facility is considered a public utility and public utilities are listed as conditionally permitted uses in the MH zone district.

The HM zone regulations specify conditions applicable to all uses in the district (see §155-055(B)). Specifically, § 155.052(B)(3) states:

No use shall be permitted, and no process, equipment, or material shall be employed which is found by the Planning Commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or traffic or to involve any hazard of fire or explosion.

If, after receiving public testimony, the Planning Commission finds that the proposed project is objectionable to persons residing or working in the vicinity, the Commission may deny the request to amend the conditional use permit by finding that the proposed project does not comply with the required conditions of the HM zone district, specifically Section 155.052(B)(3).

4) ***Use is consistent with Local Coastal Program:*** The project site is not located in the coastal zone.

Support Material:

Attachment 1: Zoning and AP Maps, Site Plan	page 7
Attachment 2: Resolution 2017-05	page 8
Attachment 3: 2009 Negative Declaration	page 10
Attachment 4: Initial Study, draft Negative Declaration Addendum.....	page 12

Stephen Avis, AICP
Consulting Senior Planner

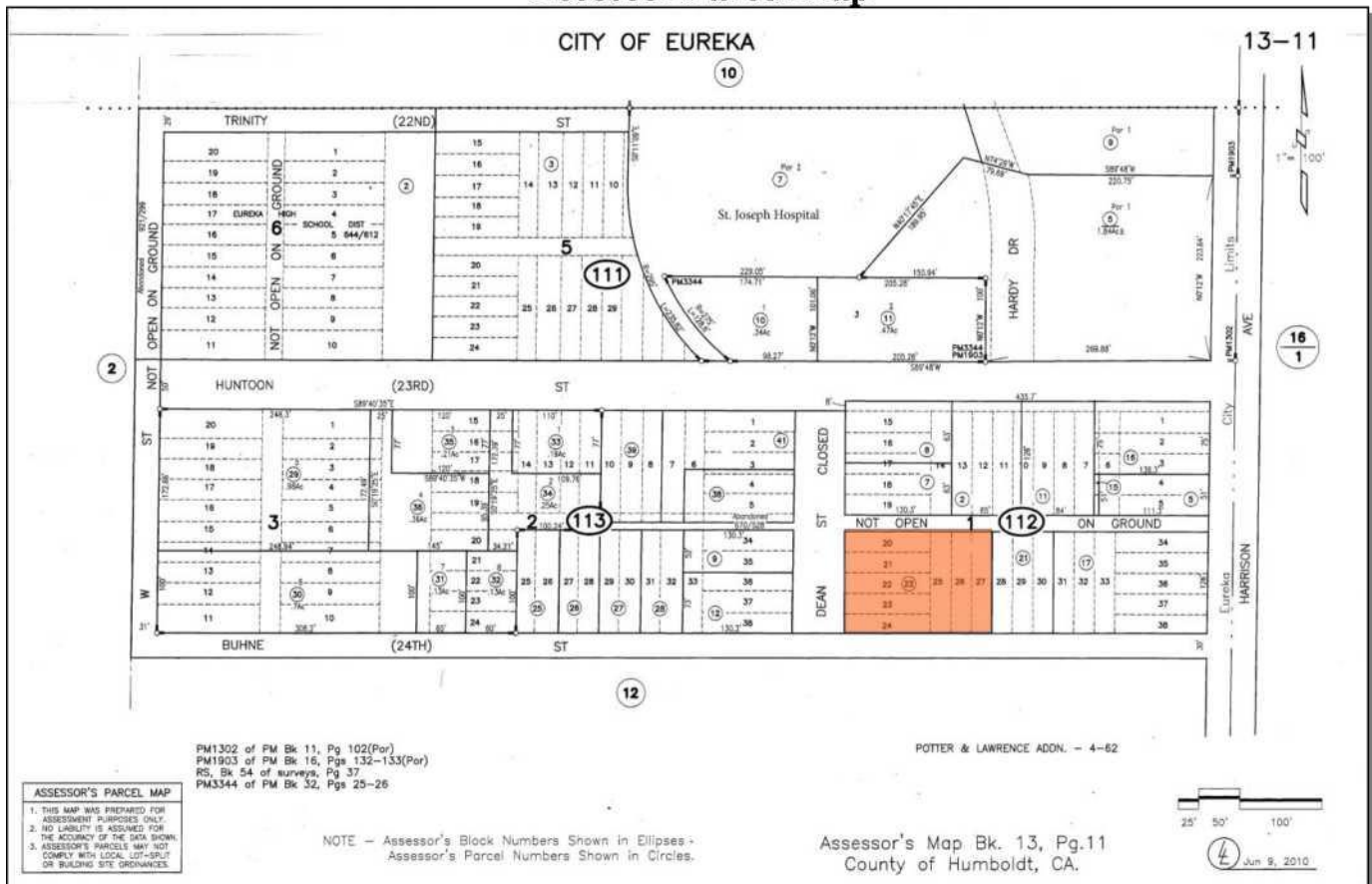
Robert Holmlund, AICP
Director of Community Development

April 5, 2017

Attachment 1 Zoning Map



Assessor Parcel Map



Attachment 2

PLANNING COMMISSION RESOLUTION NO. 2017-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA MODIFYING CONDITIONAL USE PERMIT (C-09-0002) TO ALLOW A BACKUP GENERATOR AT 2327 DEAN STREET (APN: 013-012-022).

WHEREAS, Use permit C-09-0004 was approved on June 8, 2009 permitting construction of a monopole cell phone tower with battery backup; and

WHEREAS, the operator wishes to install a backup generator and propane tank to increase the length of time, during an extended power outage, that the cell tower can remain active; and

WHEREAS, a modification of the existing use permit is required to allow installation of a backup generator; and

WHEREAS, the City conducted an initial study to address impacts from noise and emissions resulting from the testing and periodic use of a backup generator and determined that there are no significant impacts; and

WHEREAS, a Negative Declaration Addendum for this modification has been prepared,

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Eureka that the project and Negative Declaration, as conditioned below and described in the Staff Report, is approved, and the decision to approve with conditions the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not be limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application. The findings of fact listed below “bridge the analytical gap” between the raw evidence in the record and the Planning Commission’s decision.

1. Wireless Communication Facilities are conditionally permitted in the RS-6000 zoning district; therefore, the operation of a monopole with multiple cellular communication antennas requires approval of a Conditional Use Permit that is consistent with the Land Use Designation and Zoning standards.
2. Use permit C-09-0004 approving the operation of this monopole using backup batteries was approved in September 2009.
3. The use of a Liquefied Petroleum Gas (LPG) powered generator provides greater reliability over a longer period of time than back-up batteries or a generator operating with piped natural gas and is safer than storing gasoline on site.

4. Modification of a Conditional Use Permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA).
5. An Initial Study for the addition of a back-up generator was prepared with the conclusion that no significant impacts would result from addition of a back-up generator; a Negative Declaration Addendum has been prepared.
6. The project meets the purposes of §155.180 Site Plan and Architectural Review.
7. The project will comply with applicable provisions of the Code.

FURTHER, approval of the Use Permit is conditioned on the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

1. A building permit shall be secured before construction begins.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 10th day of April, 2017 by the following vote:

AYES: COMMISSIONER
NOES: COMMISSIONER
ABSENT: COMMISSIONER
ABSTAIN: COMMISSIONER

Jeff Ragan, Chair, Planning Commission

Attest:

Pamela J. Powell, City Clerk



CEQA NEGATIVE DECLARATION

CITY OF EUREKA

SCH #:2009082017

Project Title: *T-Mobile Cellular Monopole, Dean Street*

Project Applicant: PWM, Inc.

Case No: C-09-0004

Project Location: 2327 Dean Street and 2421 Buhne Street; APN 013-112-010 and -020

Zoning & General Plan: Hospital Medical (HM)

Project Description: The project is composed of the construction of a fifty (50) foot high, twenty-four (24) inch diameter painted steel pole for T-Mobile cellular monopole for cellular and wireless communication with ground mechanical support equipment on the property at 2327 Dean Street, also known as 2421 Buhne Street (these two properties were merged into one lot earlier this year). The approximately 22,680 square foot subject property is located at the northeast corner of Buhne and Dean Streets; the property has 126' frontage on Dean Street and 180' frontage on Buhne Street. The proposed monopole would be located approximately 116' from Buhne Street, approximately 92' from Dean Street and about 10' from the alley. The wireless/cellular pole would be a monopole design with three concealed antennas within a plastic enclosure cover (radome) without top lighting. The enclosure also contains space for three (3) additional antennas for increased capacity or an additional carrier. The foundation for the monopole (pending a soils report) would be approximately seven (7) feet square and seven (7) feet in depth located at the back of the building within the existing lawn area. The total number of cubic yards of soil to be removed from the site is about twelve one-half (12 1/2) yards. The remainder of the existing lawn and tree would remain. A battery cabinet would be used for temporary power outages. Electrical and telephone services are available from the alley adjacent to the site. The ground equipment would be on a cement pad of about 10' x 20', behind a six-foot tall chain link fence approximately 1' west of the existing fence that separates 2327 Dean Street from 2421 Buhne Street.

LEAD AGENCY/CONTACT: City of Eureka, Community Development Department; Sidnie L. Olson, AICP, Senior Planner; 531 K Street, Eureka, CA 95501-1165; phone: (707) 441-4265; fax: (707) 441-4202; e-mail: solson@ci.eureka.ca.gov

DATE OF PROJECT APPLICATION: June 30, 2009

DATE OF PROJECT APPROVAL: September 14, 2009

FINDINGS: This is to advise that on September 14, 2009, the Planning Commission of the City of Eureka, as the Lead Agency, approved the project described above, and made the following determinations and findings regarding the project.

1. The Planning Commission found that the proposed project will not have a significant effect on the environment.
2. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

3. The Planning Commission found that the Negative Declaration was prepared pursuant to the provisions of CEQA.
4. The decision of the Planning Commission to adopt the Negative Declaration was based on the whole record before it (including the initial study and any comments received).
5. The Planning Commission found that the Negative Declaration reflects the City of Eureka's independent judgment and analysis.
6. Mitigation measures were not made a condition of project approval.
7. A Statement of Overriding Considerations was not adopted for this project.
8. Findings were not made pursuant to the provisions of CEQA (CCR §15091)
9. The Planning Commission did not adopt a program for reporting on or monitoring the changes which it either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.
10. The Planning Commission found that the project site is not within two nautical miles of a public airport or public use airport, and they determined that the project will not result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

This is to certify the City of Eureka, Community Development Department, is the custodian of the documents or other material which constitute the record of proceedings upon which the Planning Commission's decision was based; and that the Negative Declaration and the record of project approval are available to the general public for review during regular office hours at the City of Eureka, Community Development Department, third floor, 531 K Street, Eureka, CA 95501.

Sidnie L. Olson, AICP
Principal Planner
City of Eureka

Date

CEQA Initial Study

Project Title: Emergency T-Mobile Backup Generator, 2327 Dean Street

Project Applicant: PWM, Inc. **Case No:** MOD-17-0002

Project Location: 2327 Dean Street; APN: 013-112-022

Zoning and General Plan Designation: Hospital Medical (HM); Medical Services Commercial (MSC)

Project Description: The project proposes the construction and operation of one (1) emergency backup generator with one (1) propane tank. The generator and propane tank would be located adjacent to the existing T-Mobile equipment slab and would be mounted upon new concrete pads. The FCC requires cellular carriers to install backup generators for emergency purposes to protect the Public's ability to make 911 calls to Public Safety Departments and other emergency calls such as to doctors, veterinarians and family members. To meet this standard, cellular carriers are required to have their cell sites on emergency backup generators.

Lead Agency: City of Eureka, 531 "K" Street, Eureka, CA 95501-1165

Contact Person: Stephen Avis, AICP, Consulting Senior Planner; *phone:* (707) 441-4164; *fax:* (707) 441-4202; *e-mail:* savis@ci.eureka.ca.gov

Project Applicant's Name and Address: Sponsor: PWM, Inc. for T-Mobile West LLC. c/o Thomas J. McMurray Jr., P.O. Box 1032 Eureka, CA 95502 Phone: (707) 499-0901

Setting and Surrounding Land Uses: The City of Eureka is a charter city located on Humboldt Bay, approximately 300 miles north of San Francisco and 100 miles south of the Oregon border. Initially founded in the spring of 1850, the City of Eureka was incorporated through a special act of the state legislature on April 18, 1856. The community was reincorporated as a City on February 19, 1874 and received a charter on February 8, 1895. As the county seat for the 572 square mile Humboldt County, Eureka is the center of business and government; the major industries include agriculture, fishing and tourism. The average July maximum temperature is 61.6°F and the average January maximum temperature is 54.3°F. The average July minimum temperature is 52.3°F and the average January minimum temperature is 41.5°F. The average annual precipitation is 39.0 inches; the average annual snowfall is 0.3 inches.

The subject property is approximately 22,680 square feet in size and is located at the northeast corner of Buhne and Dean Streets. The property contains a communications

facility and residential structure at 2327 Dean Street and a financial office building at 2421 Buhne Street. The subject property has approximately 126' frontage on Dean Street and approximately 180' frontage on Buhne Street. The proposed generator would be located approximately 29'-6" to the west of the existing financial building, approximately 89'-6" west of the east property line, approximately 119'-7" north of the south property line, approximately 98' east from the west property line, and approximately 6'-5" south of the north property line.

Other Public Agencies whose Approval is, or may be Required (e.g. permits, financing approval, or participation agreement): City of Eureka Planning and Building, Public Works.

Environmental Factors Potentially Affected: The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Less Than Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Agricultural & Forestry Resources | <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Public Services |
| <input checked="" type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Land Use Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utility/Service Systems |
| <input type="checkbox"/> Geology/Soils | <input checked="" type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of Significance |

Determination: On the basis of this initial evaluation:

- ☒ I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- ☐ I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- ☐ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Stephen Avis, AICP
Consulting Senior Planner, City of Eureka

Date